

76-1306

Supreme Court, U. S.

FILED

MAR 21 1977

MICHAEL RODAN, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. _____

FRESHMAN, MARANTZ, COMSKY &
DEUTSCH, LAW CORPORATION, A
California Corporation,

Respondent,

vs.

RONALD LAMONT,

Petitioner

WARREN C. DEUTSCH, Agent, Officer
and Shareholder of FRESHMAN,
MARANTZ, COMSKY & DEUTSCH,
LAW CORPORATION,

Respondent.

PETITION FOR WRIT OF CERTIORARI
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

RONALD LAMONT

11734 Wilshire Blvd.
Apt. C 810
Los Angeles, CA 90025
(213) 473-3250

In Propria Persona

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V.

RONALD LAMONT,

Petitioner

WARREN C. DEUTSCH, Agent, Officer
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MARANTZ, COMSKY & DEUTSCH, LAW
CORPORATION,

Respondent

PETITION FOR WRIT OF CERTIORARI
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

This is a Petition for RONALD LAMONT

for a Writ of Certiorari to review the Dismissal of Appeal made by the District Court of Appeal of the State of California, Second Appellate District, on October 28, 1976 App. "A", denying the Petitioner's Appeal seeking a reversal and dismissal of the "Final Judgment" and minute order in its entirety, sustaining Respondent's Demurrer for uncertainty, against Petitioner's counter-suit for extortion damages for TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), filed by the Superior Court of the State of California for the County of Los Angeles on August 15, 1975 App. "B". The Appellant Court has so far sanctioned a departure from the accepted and usual course of Judicial Proceedings by the Superior Court, as to call for an exercise of this Court's Power of Supervision.

2.

JURISDICTION

1. The Supreme Court already has jurisdiction as this is a direct Appeal from the decision of a three judge court.

2. The matter in controversy exceeds the "sum of value" of \$10,000.00 exclusive of interest and costs.

3. This matter arises under the Constitutional Laws of the United States.

4. For the jurisdiction of this Court is invoked under:

28 U.S.C. § 1253

28 U.S.C. § 1254

28 U.S.C. § 1331

QUESTION PRESENTED

1. Did not the Appeals Court sanction a departure from the accepted and

3.

usual course of judicial proceedings by the Superior Court, which suppressed the evidence of Respondents extortion and transferred the Petitioner's Cross-Complaint back to the Municipal Court of Beverly Hills thus creating a cover-up of Respondents extortion and denying Petitioner his 14th Amendment Rights?

CONSTITUTIONAL PROVISIONS AND
STATUTES INVOLVED

1. FOURTEENTH AMENDMENT TO THE
UNITED STATES CONSTITUTION App. "C"

2. Title 28 U.S.C. § 1331

3. Title 28 U.S.C. §§ 1253 - 1254

The foregoing statutes have been set forth in the Appendix attached hereto.

STATEMENT OF THE CASE

The entire case was based on the

facts which are as follows:

1. That on December 10, 1971, Berniece Britton Lamont went to the office of the Respondents for the purpose of hiring them to set a stipulation drawn up and submitted by her former attorney, Robert Aran, in which he obtained her signature through coercion, App. "D", A. She and Respondent Deutsch a senior partner of this law firm of FRESHMAN, MARANTZ, COMSKY & DEUTSCH, reached an accord that he personally would do all of the work himself and the rate agreed upon was \$65.00 per hour.

2. On December 16, 1971, Berniece Britton Lamont received a letter addressed only to her App. "D", C. in which was enclosed a letter agreement dated December 15, 1971 addressed to

both Berniece and Ronald Lamont (although Ronald Lamont was not a party in the action) spelling out the terms agreed upon in the meeting of December 10, 1971 App. "D", B.

3. Ronald Lamont, not wishing to be involved in a matter not concerning him as this action was pertaining only to Berniece and events taking place long before he met her, called Respondent Deutsch and explained his position with regard to this matter. Respondent Deutsch answered, "we are only asking you to witness her signature varifying that she agrees to the conditions in the contract. Please ignore the way my secretary typed it". Based on this conversation, Petitioner, Ronald Lamont signed the agreement.

4. On December 21, 1971 Berniece

Britton Lamont substituted Respondents as her attorney of record instead of herself, App. "D", D.

5. Respondents prepared a Notice of Motion, Motion and Order setting aside, vacating or rescinding stipulation order App. "D", E., in which Petitioner, RONALD LAMONT, was asked to write a declaration reporting and describing his observations of Berniece Britton Lamont during the probate trial and after, in which her former attorney, Robert Aran, withheld from the court crucial evidence in his possession in the court room which was absolutely essential to enable her to support her claim in the estate, and in which he pressured her, in her weakened position, into agreeing in open court to accept a token settlement. He again pressured her

by harrassment and lies into signing the stipulation which he promised not to submit without her written authorization allowing it. He submitted the stipulation to the court without requesting this authorization.

6. On or about February 29, 1972 Berniece Britton Lamont received a letter dated February 28, 1972 from the Respondents notifying her of the Superior Court's denial of motion and of the terms under which they would proceed with an Appeal App. "D", G, \$65.00 per hour as previously agreed upon.

7. On March 24, 1972 Respondents filed a petition with the Court of Appeal, Second Appellate District, State of California, App. "D", H. on behalf of Berniece Britton Lamont.

8. On April 20, 1972 Respondents

notified Berniece Britton Lamont by letter that the Court of Appeal had denied her petition, App. "D", J. They added if she wished to proceed with an appeal to the State Supreme Court to notify them.

9. On May 24, 1972, Berniece Britton Lamont reluctantly in view of previous failures by Respondents sent Ronald Lamont to inform Respondent Deutsch that she wished to proceed with an appeal to the Supreme Court of California.

10. On May 25, 1972 Petitioner Ronald Lamont, arrived at the office of Respondents at approximately 11:00 A.M. and relayed Berniece Britton Lamont's decision to proceed with a petition to the Supreme Court of California. Respondent Deutsch then confronted Petitioner with a fraudulent bill for which he demanded

immediate payment before he would proceed. PETITIONER RONALD LAMONT INFORMED HIM THE BILL WAS IN ERROR. THAT THEY HAD BEEN PAID AND NO MONEY WAS OWING TO THEM. RESPONDENT DEUTSCH DEMANDED IMMEDIATE PAYMENT FOR THEIR FRAUDULENT BILL BEFORE THEY WOULD PROCEED. Ronald Lamont, Petitioner, said he didn't have it. Respondent pressuring Lamont demanded collateral. Petitioner was pushed into signing Note App. "G" even though HE WAS NOT THE CLIENT. NO MONEY WAS OWING TO THE RESPONDENTS. Even though Berniece Britton Lamont was not accessible to the Respondents, she was their client and they made no effort to contact her.

11. The Respondents, after they had the Note submitted a Petition to the Superior Court of the State of California in

behalf of their client Berniece Britton Lamont.

12. On June 27, 1972 the Respondents notified Berniece Britton Lamont of the Supreme Court's denial of her Petition App. "D", L.

13. Berniece Britton Lamont terminated the services of Respondents on February 1, 1972. The Respondents acknowledged their termination and sent back a Substitution of Attorney, substituting her back as her own attorney App. "D", P.

14. The Respondents filed a complaint and amended complaint seeking recovery for services rendered based upon the note App. "G" against Defendant, Berniece Britton Lamont and Defendant, Petitioner Ronald Lamont See App. "F" Par. 1, 2 and 3.

15. Petitioner, RONALD LAMONT, filed

a Cross-Complaint for extortion damages of \$25,000.00 against the Respondents. The Cross-Complaint sought relief beyond the jurisdiction of the Municipal Court of Beverly Hills and the action was transferred to the Supreme Court of Los Angeles.

16. The Respondents demurred to the Cross-Complaint, a general demurrer for uncertainty.

17. The Petitioner answered with his Memo in Opposition to the demurrer.

18. The demurrer was heard on August 15, 1975 App. "F". The Trial Court's Minute Order states that the demurrer was sustained without leave to amend: That the matter be transferred "forwith" to the Beverly Hills Municipal Court for further proceedings. No dismissal was made as required by law App. "E".

19. On October 15, 1975 Petitioner filed his Notice of Appeal to the Appeals Court of California Second District.

20. The case was heard on October 26, 1976. Both the Respondents representative and the Petitioner were present.

21. On October 28, 1976 the decision of Appeals Court on this case was issued App. "A", dismissing Petitioners appeal.

22. On November 12, 1976, Petitioner filed a Petition for Rehearing, Rehearing denied on November 24, 1976 App. "K".

23. On December 6, 1976 Respondents filed their answer to petition for rehearing which had already been denied on November 24, 1976. The Court of

Appeal acted improperly when it filed this document and included it with the documents sent to the Supreme Court of California in spite of the fact it was already beyond their jurisdiction.

24. On December 6, 1976 a Petition for Hearing was filed with the Supreme Court of California. This petition was denied on December 22, 1976, App. "L".

REASONS WHY WRIT SHOULD BE GRANTED

The Respondents have, in no way, made any effort to contradict, rebut, impeach, or in any way, discredit the evidence submitted by the Petitioner in either their demurrer for uncertainty or in their Respondents reply brief, or even in their late filing Respondents reply brief, or even in their late

filing Respondent's answer to the Petition for Rehearing Petitioner, RONALD LAMONT'S charges of fraud and extortion. The Superior Court of California County of Los Angeles enabled the Respondents to cover up their fraudulent acts and extortion with a minute order without move to amend and by transferring the action to the Municipal Court of Beverly Hills rather than dismissing this action as required by Cal Code of Civil Proc. 581d. Petitioners Cross Complaint was for \$25,000.00. This transfer is a final judgment. Petitioner, RONALD LAMONT'S App. "C", 14th Amendment Rights were violated by the Superior Court during this trial App. "F".

ARGUMENT

A.

APPELLANT COURT UPON EXAMINATION OF PETITIONER'S APPEAL, HAD BEFORE IT UNCONTRADICTED AND COMPELLING EVIDENCE IN SUPPORT THEREOF: ITS FAILURE TO GRANT THE APPEAL WAS A CLEAR ABUSE OF DISCRETION

The record reveals that on subject appeal, it was shown by uncontradicted evidence that;

1. The Petitioner did not receive any service from the Respondents in any manner but by a contrived series of implications and distortions they attempted to involve him.
2. The Cross-Complaint filed by the Petitioner was sufficiently clear to appraise Respondents of the true nature of the complaint.
3. The Cross Complaint did state sufficient facts to constitute a Cause of Action.

LYNCH v. RHEINSCHILD (1948) 195 P.2d 448,

86 C.A. 2d 672

On appeal from a judgment dismissing a complaint after a General Demurrer has been sustained thereto, an Appellant Court is confined to a consideration of whether complaint states sufficient facts to constitute a Cause of Action.

No principle is more firmly established in our judicial system that the principle that judicial decisions shall be rendered in a manner consistent with the facts, notwithstanding that it was presented with uncontradicted evidence, the Appellant Court failed and refused to grant the Petitioner the Order for which he prayed. Such refusal, in light of the uncontradicted and compelling evidence sub-

mitted in support of PETITIONER'S Appeal constituted a clear abuse of the Appellant Court's decision.

B.

THE COURT OF APPEALS HAS RENDERED A DECISION IN CONFLICT WITH THE DECISION OF ANOTHER COURT OF APPEALS ON THE SAME MATTER.

Prior decisions by this Court have expressed a different opinion than that used in this case dismissing the PETITIONER'S Appeal. As evidence in the rulings below:

PERRY v. FIRST CORP (1959) 334 P 2d 167 C.A. 2d 359 App. "N"

HOWE v. KEY SYSTEM TRANSIT CO. (1926) 246 P. 39 193 C. 525 App. "N"

SPINNER v. LOS ANGELES RY. CORP. (1942) 126 P.2d 940, 52 C.A. 2d 679 App. "N"

FROM THE CALIFORNIA CODE OF CIVIL PROCEDURES S 904.1 App. "E"

1. General

WALTERS v. PLUMAS COUNTY (App. 1976)

132 Cal. Rptr. 174

Even though "order granting dismissal to complaint" was not appealable under this section and even though appeal was technically premature since no judgment was entered in case, where order was intended to be a final disposition of the controversy and was signed by the trial court. Order would be treated as a final judgment by Court of Appeal on such courts own motion.

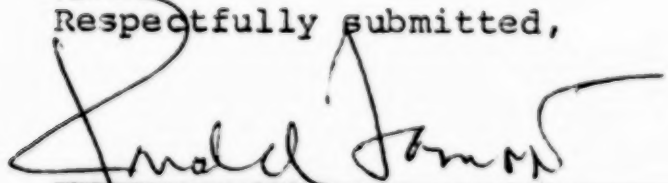
The Appellant Court in this case to be consistant with other decisions of this court should have given PETI-

TIONER, RONALD LAMONT, the sought after relief.

CONCLUSION

For the above mentioned reasons PETITIONER, RONALD LAMONT, respectfully requests that this Honorable Court grant the instant petition for Writ of Certiorari and such other and further relief as to this Court seems just and proper.

Respectfully submitted,



RONALD LAMONT
PETITIONER

APPENDIX A

COPY
NOT FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA - SECOND APPELLATE DISTRICT
DIVISION ONE

FRESHMAN, MARANTZ, COMSKY)		
& DEUTSCH, LAW CORPORATION,)		
A California Corporation)		2d Civil
		No. 48722
Plaintiff, Cross-)		
Defendant and)		(Sup. Ct.
Respondents,)		No. WEC
		38284)
v.)		
RONALD LAMONT,)		
Defendant, Cross-)		
Complainant and)		
Appellant)		

WARREN C. DEUTSCH, Agent,)		
Officer and Shareholder of)		
FRESHMAN, MARANTZ, COMSKY &)		
DEUTSCH, LAW CORPORATION,)		
Cross-Defendant)		
and Respondent)		

COURT OF APPEAL-SECOND DIST.

FILED

OCT 28 1976

CLAY ROBBINS, JR. Clerk

APPEAL from (purported) judgment of
the Superior Court of Los Angeles County,
Laurence J. Rittenband, Judge. Appeal
dismissed.

Ronald Lamont in propria persona
for Defendant, Cross-Complainant and
Appellant.

Richard H. Cooper, Elliott Lisnek,
Mark A. Klein, and Ronald D. Jaman for
Plaintiff, Cross-Defendants and Respon-
dents.

THE CASE

Plaintiff-respondent law corporation
filed its complaint and an amended com-
plaint in the Beverly Hills Municipal
Court seeking recovery for services ren-
dered, open book account, and account
stated against defendant Berniece
Britton Lamont, defendant-appellant
Ronald Lamont, and fictitious Doe de-
fendants.

Defendant Berniece Britton Lamont
appeared by way of an answer and is not
a party to this appeal.

Defendant Ronald Lamont answered
and filed a cross-complaint against
plaintiff law corporation and one of
its agents, directors and shareholders.
The cross-complaint sought relief be-
yond the jurisdiction of the munici-
pal court and the action was trans-
ferred to the Los Angeles Superior
Court.

The two cross-defendants (respon-
dents) demurred to the cross-complaint.
The trial court's minute order of August
15, 1975, states that the demurrer was
sustained without leave to amend; that
the matter be transferred "forthwith"
to the Beverly Hills Municipal Court;

that notice was waived; and that the matter was transferred to said municipal court for further proceedings. Notice of this "ruling" was given by plaintiff and cross-defendants to the defendants and to cross-complainant Ronald Lamont.

On October 15, 1975, cross-complainant Ronald Lamont filed his notice of appeal.

DISCUSSION

Prior to 1963 under section 581d of the Code of Civil Procedure, entry of a minute order of dismissal constituted a judgment from which an appeal would lie. In 1963 the section was amended to require dismissals to be by written order signed by the court and filed in the ac-

tion. (See 4 Witkin, Cal. Procedure (2d ed.), § 58, subd. (a)(2), pp. 4073-4074.)

In Graski v. Clothier (1969) 273 Cal.App.2d 605, demurrer to an amended complaint was sustained with leave to amend. No amendment was made and a minute order was entered granting a motion to dismiss. Appeal was taken from that minute order. It was pointed out that there was no dismissal "in the form of a written order signed by the court and filed in the action," as provided by the 1963 amendment to section 581d. It was held that the appeal had been taken from a nonappealable minute entry. The appeal was dismissed. (See also: Rios v. Torvald Klaveness (1969) 2 Cal. App. 3d 1077, 1079 [1(.])

In the case at bench, since the minute order appears in the record and the record is devoid of any written order which was signed by the court and filed in this action dismissing the cross-complaint, the appeal must be dismissed.

DISPOSITION

The appeal is dismissed, each party to bear his (its) own cost on appeal.

HANSON J.

We concur:

WOOD, P.J.

LILLIE, J.

DEPT. WEST D

359

Date AUGUST 15, 1975 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

HONORABLE LAURENCE J RITTENBAND

Deputy Sheriff

A DESPOL

NONE

Deputy Clerk

Reporter

40

L-WALTON

R. NOREMBERG

(Names and counsel checked if present)

WEC 38284

FRESHMAN, MARANTZ, COMSKY &
DEUTSCH, CORPCounsel for
PlaintiffFRESHMAN, MARANTZ, COMSKY
& DEUTSCHCounsel for
Defendantby R. JAMAN ✓
RONALD LAMONT ✓
~~BERNIECE BRITTON LAMONT~~

VS

BERNIECE BRITTON LAMOUNT, ET AL

NATURE OF PROCEEDINGS

PLAINTIFF & CROSS-
DEFENDANTS MOTION TO
SET ASIDE JUDGMENT
Cont'd from August 1, 75
1-cThe motion is argued and placed off
calendar.DEFT DEMURRER TO
AMENDED COMPLAINTThe demurrer is sus-
tained on the grounds
stated therein with-
out leave to amend.The Court orders the matter be transferred forth-
with back to Court of original jurisdiction:
Municipal Court, Beverly Hills Judicial District.

Motion waived.

NO TRIAL SET FOR
Beverly Hills Municipal Court
FOR
☐ JURY TRIAL
☐ NON-JURY TRIAL
 AND CHECK HERE

40

DEPT WED

MINUTES ENTERED

8-15-75

COUNTY CLERK

TODAY'S DATE

MINUTE ORDER

B-1.

APPENDIX C

CONSTITUTION OF THE UNITED STATES OF AMERICA:

AMENDMENT 14 - RIGHTS GUARANTEED

PROCEDURAL DUE PROCESS: CIVIL

Some General Criteria

What is the process of law depends on the circumstances. It varies with the subject matter and the necessities of the situation. By due process of law is meant one which, following the forms of law, is appropriate to the case and just to the parties affected. It must be pursued in the ordinary mode prescribed by law; it must be adapted to the end to be attained; and whenever necessary to the protection of the parties. IT MUST GIVE THEM AN OPPORTUNITY TO BE HEARD respecting the justice of the judg-

ment sought. Any legal proceeding enforced by public authority, whether sanctioned by age or custom or newly devised in the discretion of the legislative power, which regards and preserves these principles of liberty and justice, must be held to be due process of law.

APPENDIX D

REFERENCE LIST OF EXHIBITS
REFERRED TO IN APPELLANT'S
REPLY BRIEF WITH THEIR RES-
PECTIVE PAGE NUMBERS IN THE
CLERK'S TRANSCRIPT OR OTHER
SOURCES

- A. Stipulation and Order signed by
Berniece Britton Lamont (CT 73-77)
(CT 304-309)
- B. Letter Agreement dated December 15,
1971 (CT 50-51) (CT 299-300)
- C. Envelope dated December 15, 1971,
(original on file with the District
Court of Appeal of California,
Second Appellate District in APPEL-
LANT'S Motion to Augment the Clerk's
Transcript as EXHIBIT "A" page 4.)
- D. Substitution of Attorney whereby
Berniece Britton Lamont substituted
the Law Firm of FRESHMAN, MARANTZ,
COMSKY & DEUTSCH as her attorney
stead of herself (CT 53) (CT 311)

- E. A Notice of Motion, Motion and Order setting aside, vacating or Rescinding Stipulation and Order (CT 55-59) (CT 314-315)
- F. Declaration of RONALD LAMONT (CT 55-89) (CT 314-315)
- G. Letter dated February 28, 1972 from RESPONDENTS notifying Berniece Britton Lamont of the Superior Courts Denial of Motion (CT 91-93) (CT 317-319)
- H. Petition to Court of Appeal of Second Appellate District, State of California on March 24, 1972 (CT 95-146) (CT 322-323)
- J. Letter dated April 20, 1972 where RESPONDENTS notified Berniece Britton Lamont that the Court of Appeal had denied her Petition (CT 148) (CT 326)
- K. Petition to the Supreme Court of California (CT 218-232) (CT 331-322)

- L. Letter dated June 27, 1972 from RESPONDENTS notifying Berniece Britton Lamont of Supreme Courts denial of her Petition (CT 334)
- M. Letter dated February 20, 1973 making a demand upon Berniece Britton Lamont to sign an authorization causing her to relinquish her entire estate settlement to RESPONDENTS from Title Insurance and Trust Company. (APPELLANT'S Motion to Augment the Clerk's Transcript pages 5 and 6).
- N. RESPONDENTS First Amended Complaint filed against APPELLANT, RONALD LAMONT (CT 13-17)
- O. Berniece Britton Lamont's letter terminating the services of the law firm of FRESHMAN, MARANTZ, COMSKY & DEUTSCH, RESPONDENTS (CT 236) (CT 336)

- P. RESPONDENT'S acknowledgment of
Berniece Britton Lamont's letter
of termination with enclosed Sub-
stitution of Attornry substituting
her back as her own Attorney stead
of RESPONDENTS, dated February 1,
1974 (CT 238-239) (CT 338-339)
- Q. Letter dated February 6, 1974 de-
manding RESPONDENTS return check
from Title Insurance and Trust
made out to Berniece Britton
Lamont (CT 241) (CT 341)
- R. Letter dated February 14, 1974
whereby the RESPONDENTS acknow-
ledged having the check in ques-
tion (CT 243) (CT 343)
- S. Letter dated February 20, 1974 to
RESPONDENTS from Berniece Britton
Lamont (copy filed with Superior
Court) demanding that the check

and all documents be returned to
Title Insurance and Trust Company
(CT 245) (CT 345)

- T. Copy of letter dated February 22,
1974 from RESPONDENTS written to
Title Insurance and Trust Company
returning the check and all docu-
ments (CT 247) (CT 347)

APPENDIX E

CALIFORNIA CODE OF CIVIL PROCEDURES:

§ 581 d. DISMISSAL; ENTRY; FORM

A written dismissal of an action shall be entered in the clerk's register or in the docket in the justice court, as the case may be, and is effective for all purposes when so entered.

All dismissals ordered by the court shall be in the form of a written order signed by the court and filed in the action or in the docket in the justice court, as the case may be, and such orders when so filed shall constitute judgments and be effective for all purposes and the clerk in superior and municipal courts shall note such judgments in his register of actions in the case.

(Added by Stats. 1947, c. 990. p. 2257,

§ 3. Amended by Stats. 1951, c. 1737, p. 4112, § 34, operative Jan. 1, 1952; stats. 1959, c. 346, p. 2269, § 1; Stats. 1963, c. 875, p. 2123, § 1.)

§ 904.1 SUPERIOR COURTS, APPEALABLE JUDGMENTS AND ORDERS

An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (b) (i) (j) (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal court or a justice court or a small claims court.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting

a motion to stay or dismiss the action on the ground of inconvenient form.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the judgment.

(e) From an order discharging or refusing to discharge an attachment.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof or a lieu thereon, determining such right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining

the rights and interests of the respective parties and directing partition to be made.

(j) From an interlocutory * * * judgment or dissolution of marriage.

(k) From an order or decree made appealable by the provisions of the Probate Code.

(Added by Stats.1968, c. 385, p. 812, § 2. Amended by Stats.1969, c. 1611, p. 3394, § 21, operative July 1, 1970, Stats.1971, c.1210 p. 2328 § 8.)

APPENDIX F

AFFIDAVIT OF RONALD LAMONT

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

1. I am the Defendant, Cross-Compl-
aintant and APPELLANT and at all times here-
in was, a resident of Los Angeles County,
State of California.

2. I filed my Notice of Demurrer on
April 15, 1975 in the Municipal Court of
Beverly Hills Judicial District Court of Los
Angeles in which I included a tremendous
amount of evidence which would clearly exon-
erate me from having any connection with the
litigation between the law firm of FRESHMAN,
MARANTZ, COMSKY & DEUTSCH, A Law Corporation,
Plaintiff, Cross-Defendant, and RESPONDENT,
Warren Deutsch, Agent, Officer and Share-
holder of FRESHMAN, MARANTZ, COMSKY &
DEUTSCH, Law Corporation, RESPONDENT and
Berniece Britton Lamont as this was related

to a matter which took place prior to my marriage to her.

3. That on April 25, 1976 at 2:00 P.M. the Motion to Demurrer to set aside the order amending the Complaint was scheduled to be heard. The names "FRESHMAN VS. LAMONT" was called. As I, RONALD LAMONT, approached the bench, the Honorable Leonard S. Wolf, presiding Judge of Division II of the Municipal Court of Beverly Hills, stated, "Mr. Lamont, this court has ruled against you, you will have to go to trial". I exclaimed, "Your Honor, I have submitted a Brief with evidence proving that I had no connection with this case and wish to present this evidence and prove that I was not involved". The Judge answered, "I can not look at that material." He then said, "Mr. Lamont, you have 20 days to answer." I was shocked, a verdict had

been handed down against me without my being allowed to say one word in my defense. The verdict had been handed down as I was approaching the bench immediately after this case was called. I later realized that Beverly Hills is a very small community, with a large concentration of law firms within its city limits and the law firm of FRESHMAN, MARANTZ, COMSKY & DEUTSCH is one of the largest and it was obvious their influence on the Municipal Court Judges of Beverly Hills is very effective.

4. That on May 15, 1975, I filed a Cross Complaint for Extortion Damages and petitioned the Beverly Hills Court to have the case transferred to the Superior Court of the State of California for the County of Los Angeles because my Cross-Complaint exceeded the monetary limit of the Muni-

cipal Court of Beverly Hills. The transfer was approved.

5. The Opposition, rather than filing an Answer to my Cross-Complaint, filed a General Demurrer to the Cross-Complaint for uncertainty on July 15, 1975.

6. The hearing on the General Demurrer was August 15, 1975. Because of the faith and confidence that I still had in our Justice system and in our Superior Court, I did not feel that a Court Reporter was necessary as I had complete and unquestioning confidence in its entirety. I had expected that the presiding Judge of this august body would allow me to have my day in Court and would give me adequate time and full and fair opportunity to present my views and evidence fully. This did not happen. My case, as in Beverly Hills, was the first called. The Honorable Laurence J.

Rittenband, Judge of the Superior Court Dept. "D" asked, "Mr. Lamont, how much time do you need?" I answered, 4 1/2 hours, Your Honor"; (I needed 4 1/2 hours because in my Memo in Opposition to the Demurrer I had 13 pages of Argument, 13 critical exhibits and 5 pages of Points and Authorities). He then asked Mr. Jamon, who represented the law firm of FRESHMAN, MARANTZ, COMSKY & DEUTSCH and Warren Deutsch as an officer and shareholder of FRESHMAN, MARANTZ, COMSKY & DEUTSCH, "How much time do you need"? He answered, "about twenty minutes, Your Honor." Judge Rittenband then said to me, "I am certainly not going to give you 4 1/2 hours, but maybe we can shorten it a bit." He did - to less than ten (10) minutes in this manner. Judge Rittenband said, "Mr. Lamont, you and your wife hired this law firm to set aside the sti-

pulation that she signed, isn't that right?

"No, Sir," I answered. Judge Rittenband said, "I say it is". I then answered, "I have a tremendous amount of evidence which will prove that I didn't". (All of this evidence was taken from the file from the Notice to Demurrer for setting aside, submitted on April 15, 1975. It was properly submitted and I had every right to use it in my Memo in Opposition to the General Demurrer submitted and I had every right to use it in this hearing). He then added, "It's a matter of Law".

(The law was very explicit in Pages 10 through 14 in the Memo in Opposition to the General Demurrer for Uncertainty and that it should be overruled). Judge Rittenband completely ignored the law. Judge Rittenband immediately closed the case and ruled the Demurrer is sustained

F-6.

without leave to amend, and the matter be transferred forthwith back to the Court of original jurisdiction, Municipal Court, Beverly Hills Judicial District. I WAS NOT ALLOWED TO PRESENT MY EVIDENCE OR ARGUE MY CASE OR TO PRESENT THE LAWS SUPPORTING MY POSITION. THIS WAS ALL DENIED ME BY JUDGE RITTENBAND, BUT HIS ORDER STATES, THIS MOTION IS ARGUED AND PLACED OFF CALENDAR.

7. I filed my Notice of Appeal October 15, 1975 deeply concerned and very disappointed in the behavior of our Court Judges.

8. I was fully aware that even though a Court Reporter is not asked for in a case, they take notes anyway because they are sitting in the Court Room and there is a possibility these notes will be called for at a later date. I NEEDED A CERTIFIED COPY OF THE COURT REPORTER'S TRANSCRIPT

F-7.

OR OF THE COURT REPORTER'S NOTES OF THIS HEARING OF AUGUST 15, 1975 AS I INTENDED TO SUBMIT IT AS PART OF MY OPENING BRIEF. I called the Court Reporting Services, telephone number (213) 974-5451 and asked for the name of the Court Reporter present at Dept. "D" of the Superior Court Western Division in Santa Monica on August 15, 1975. They informed me that it was Roger Williams, and he still works out of Department "D" in the Superior Court in Santa Monica.

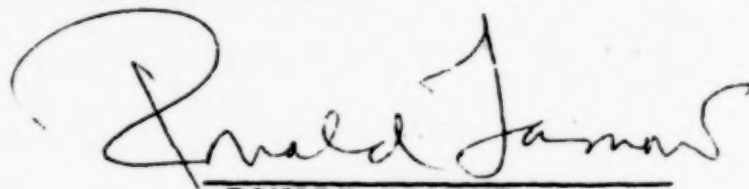
9. On May 6, 1976, I went to the Superior Court of the State of California for the County of Los Angeles, Department "D" at 1725 Main Street, Santa Monica, California for the express purpose of ordering a copy of the Court Reporter's Transcript for the hearing on the Demurrer of FRESHMAN VS. LAMONT, CASE NO. WEC 38284 heard at 9:30

A.M. Friday, August 15, 1975. At 9:15 A.M. I went to Department "D" and asked the Clerk, Ann Despol, for Roger Williams. She pointed him out to me as he had just arrived. I told him what I wanted. He said, "Just a minute, I will go get my notes". Within a few minutes he returned with the tape of his notes for August 15, 1975. I told him that it would be easy to find as it was the first case on the Calendar in the morning session. He opened up the tape, I saw the first three (3) pages with FRESHMAN AND LAMONT on the Court Reporter's notes, I said, "There it is", relieved that he had taken the notes. He answered, "Yes, it's all here but I left off the case number". I said, "That's no problem, I have here a xerox copy of the Request for Clerk's Transcript which will give you the number and you can also compare the

order handed down by the Court, I will give this copy to you". He said "Wait, I want to check the file". He did, and then asked Ann Despol if a Court Reporter was ordered, she checked and said that none had. I told him that I needed a transcript of his notes for my Appeal. Ann Despol interrupted and said in a stern voice, "No Court Reporter was ordered". It was obvious to me they would not allow me to have a transcript of these notes.

I DECLARE UNDER PENALTY OF PERJURY that the foregoing is true and correct.

Executed on the 10th day of June, 1976 in Los Angeles, California.


RONALD LAMONT

APPENDIX G

PROMISSORY NOTE

\$2,449.80 Beverly Hills, California

May 25, 1972

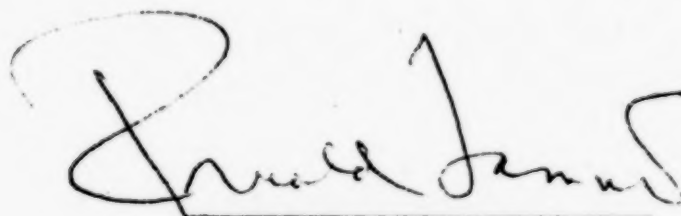
For legal services rendered and for value received, I, RONALD LAMONT, promise to pay to FRESHMAN, MARANTZ, COMSKY & DEUTSCH, Law Corporation, at Beverly Hills, California, on or before June 25, 1972, the sum of Two Thousand Four Hundred Forty Nine Dollars and Eighty Cents (\$2,449.80) principal and interest.

As and for collateral for this obligation, I hereby agree to transfer title to FRESHMAN, MARANTZ, COMSKY & DEUTSCH, Law Corporation, of a CAL 2-24, Vessel Registration Number CF5119EM, built by Jensenmar, Hull Number 173, Sticker Number A133830. Said transfer of my full and complete interest, including that of Berniece Lamont, shall be as of June

G-1.

26, 1972 should this note not be paid
in full.

If action be instituted on this
note, I promise to pay interest on said
note from June 25, 1972 at the rate of
Eight Percent (8%) per annum and to pay
reasonable attorney fees and costs neces-
sary for collection.



RONALD LAMONT

APPENDIX H

POST CARD

CLERK'S OFFICE
Court of Appeal
SECOND DISTRICT
3880 WILSHIRE BOULEVARD
SUITE 301
LOS ANGELES, CA 90010



Ronald Lamont

11734 Wilshire Blvd., #C-810

Los Angeles 90025
California

Los Angeles, Cal. JUN 17 1976, 19

TITLE { Freeman, etc., et al. }
Lamont } No. 48722

THE COURT:

Appellant's motion to augment record on
appeal is denied.

CLERK'S OFFICE
Court of Appeal
SECOND DISTRICT
3550 WILSHIRE BOULEVARD
SUITE 301
LOS ANGELES, CA 90010

CLAY ROBBINS, Clerk

9446-113 1-76 em ① osp

APPENDIX J

POST CARD

CLERK'S OFFICE
Court of Appeal
SECOND DISTRICT

3880 WILSHIRE BLVD.
SUITE 201
LOS ANGELES, CALIFORNIA 90010



Ronald Lament

11734 Wilshire Blvd. Apt. 201

Los Angeles 90025
California

Los Angeles, Cal. OCT 5 '72, 19

TITLE { Deutroby et al }
Lamont } No 48722

Ordered on calendar OCT 26 1976 at 9 a.m. before Div. the

If no oral argument is desired, and a stipulation to that effect is filed, no court appearance will be necessary.

Each party must file at once with the superior court clerk a further notice specifying such of the designated original exhibits and affidavits as he deems necessary to have transmitted to this court. (Rule 10b)

NOTE: Courtroom Suite 212

CLAY ROBBINS, JR., CLERK

5530 CLAY ROBBINS, JR., CLERK
103 90010

RECEIVED 9-75 RM @ CRP

APPENDIX K

CLERK'S OFFICE
Court of Appeal
SECOND DISTRICT
3880 WILSHIRE BOULEVARD
SUITE 301
LOS ANGELES, CA 90010



Donald Lamont

11734 Wilshire Blvd., Apt. C 810

Los Angeles 90025, California

Los Angeles, Cal. NOV 24 1976, 19
TITLE { Freshman, Marantz, Comsky & Deutsch, etc.
Deutsch, etc. } No. 48722

THE COURT:

Petition for rehearing denied.

CLERK'S OFFICE
Court of Appeal
SECOND DISTRICT
3880 WILSHIRE BOULEVARD
SUITE 301
LOS ANGELES, CA 90010

CLAY ROBBINS, Clerk

26466-112 1-76 SM ① OEP

APPENDIX L



Ronald Lamont, Esq.
11734 Wilshire Blvd., Apt. C 810
Los Angeles, CA 90025

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING

SAN FRANCISCO, CALIFORNIA 94102

DEC 22 1976

I have this day filed Order_____

HEARING DENIED

In re: 2 Civ. No. 48722
Freshman, Marantz, Comsky &
Deutsch

vs.

Lamont

Respectfully,

G. E. BISHEL
Clerk

4250-677 L-76 311 08P

L-2

Rec
12-27-76

APPENDIX M

TITLE 28 U.S.C. § 1253.

Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges. June 25, 1948, c. 646, 62 Stat. 928.

TITLE 28 U.S.C. § 1254

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By appeal by a party relying

on a State statute held by a court of appeals to be invalid as repugnant to the Constitution, treaties or laws of the United States, but such appeal shall preclude review by writ of certiorari at the instance of such appellant, and the review on appeal shall be restricted to the Federal questions presented;

(3) By certification at any time by a court of appeals of any question of law in any civil or criminal case in which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require record to be sent up for decision of the entire matter in controversy. June 25, 1948, c. 646, 62 Stat. 928.

TITLE 28 U.S.C. § 1331.

(a) The district courts shall have original jurisdiction of all civil

actions wherein the matter in controversy exceeds the sum of value of \$10,000, exclusive of interest and costs, and arise under the Constitution, laws or treaties of the United States.

(b) Except when express provision therefor is otherwise made in a statute of the United States, where the plaintiff is finally adjudged to be entitled to recover less than the sum or value of \$10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff, and in addition, may impose costs on the plaintiff. June 25, 1948, c. 646, 62 Stat. 930; July 25, 1958, Pub. L. 85-554, § 1, 72 Stat. 415.

APPENDIX N

CASES

PERRY v. FIRST CORP (1959) 334 P 2d

167 C.A. 2d 359

Notice of appeal allegedly concluded in terms of an appeal from a formal written judgment instead of minute order of non-suit which preceeded it would be treated as being from the appealable order, when it was filed in ample time and when no one was misled or prejudiced thereby. Perry v. First Corp. (1959) 324 P. 2d, 299, 167 C.A.2d 359.

HOWE v. KEY SYSTEM TRANSIT CO.

(1926) 246 P. 39 198 C.525

Question is affecting right of appeal from judgment is not what form of order or judgment may be but what is its legal effect.

N-1.

SPINNER v. LOS ANGELES RY. CORP.

(1942) 126 P.2d 940, 52 C.A. 2d 679

Where minute entry of order granting defendant's motion for a consult merely recited that such motion was made and granted, formal judgment thereafter entered was without significance, since the order granting the nonsuit, as entered into the minutes, itself constituted the "final judgment".

APPENDIX O

2ND CIVIL NO. 48722

COPY

IN THE
DISTRICT COURT OF APPEAL
of the
STATE OF CALIFORNIA
SECOND APPELLANT DISTRICT

FRESHMAN, MARANTZ, COMSKY
& DEUTSCH, LAW CORPORATION Plaintiff
A California Corporation Cross-Defendant

v.

RONALD LAMONT,

Defendant
Cross-Complainant
and PETITIONER

WARREN C. DEUTSCH, Agent, Officer
and Shareholder of FRESHMAN,
MARANTZ, COMSKY & DEUTSCH, LAW
CORPORATION

NOTICE OF APPEAL (U.S.C.S.
Rule 10)

NOTICE IS HEREBY GIVEN that RONALD
LAMONT, PETITIONER, appeals from the

O-1.

Order dismissing the Appeal entered herein on October 28, 1976, thus sustaining the Minute Order and Judgment entered on August 15, 1976 by Honorable Laurence J. Rittenband, Judge of The Superior Court of Los Angeles County, in its entirety.

THAT the Respondent's Demurrer to the Cross-Complaint is sustained without leave, to the Cross-Complaint to file an amended cross-complaint entered herein on August 15, 1975;

THAT said Cross-Complaint is ordered dismissed; and

THAT the case was ordered to be transferred back to the Beverly Hills Municipal Court, case number 87395, for further proceedings.

DATED: March 16, 1977

By; RONALD LAMONT, PETITIONER